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OFFICE OF PETITIONS

In re Application	:
Phillips, et al.	:
Application No. 09/615,026	: DECISION ON PATENT TERM
Filed: July 13, 2000	: ADJUSTMENT
Attorney Docket No. 35512-35	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 16, 2006, requesting correction of the patent term adjustment (PTA) from two hundred sixty-one (261) days to three hundred forty-two (342) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred forty-two (342) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 14, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred sixty-one (261) days. On February 16, 2006, Applicants timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred forty-two (342) days.

Applicants assert entitlement to a patent term adjustment of three hundred forty-two (342) days on the basis that the PTO improperly assessed Applicants a delay of eighty-two (81) days for filing an Information Disclosure Statement on March 18, 2005, after Applicants had filed a response on December 27, 2004.

Applicants state that the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred sixty-one (261) days based on an adjustment for PTO delay of three hundred sixty-nine (369) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and three (3) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of ten (10), five (5), five (5), five (5) and five (5) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and eighty-one (81) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of 81 days is at issue.

The application file is the official file of record. A review of the file fails to reveal an IDS filed on March 18, 2005. Accordingly, as no IDS was filed, applicant delay of eighty-one (81) days is unwarranted.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **three hundred forty-two (342) days** (372 (369+3) days of PTO delay reduced by 30 (37+91) days of applicant delay).

Receipt of the \$200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

¹ Applicants filed the application for patent term adjustment together with the filing of the issue fee.

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Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571) 272-3207.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: updated PAIR screen


PALM INTRANET

 Day : Sunday
 Date: 4/9/2006
 Time: 11:09:51

PTA Calculations for Application: 09/615026

Application Filing Date:	07/13/2000	PTO Delay (PTO):	372
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	342
PTO Delay Adjustment:	81		

File Contents History

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59	10/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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52	05/13/2005	ADVISORY ACTION (PTOL-303)			
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34	08/02/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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